

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CHIKEZIE OTTAH,

Plaintiff,

-V-

NATIONAL GRID,

Defendant.

19 Civ. 8289 (PAE) (RWL)

OPINION & ORDER

PAUL A. ENGELMAYER, District Judge:

This case was referred to the Hon. Robert W. Lehrburger, United States Magistrate Judge, for general pretrial management, Dkt. 4, and subsequently to resolve defendant's motion to dismiss, *see* Dkts. 15, 22. Before the Court is the April 27, 2020 Report and Recommendation of Judge Lehrburger, recommending that the Court grant defendant's motion in full and dismiss this case for failure to state a claim. Dkt. 38 ("Report"). The Court incorporates by reference the summary of the facts provided in the Report. For the following reasons, the Court adopts this recommendation.

DISCUSSION

In reviewing a Report and Recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). “To accept those portions of the report to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” *Ruiz v. Citibank, N.A.*, No. 10 Civ. 5950 (KPF), 2014 WL 4635575, at *2 (S.D.N.Y. Aug. 19, 2014) (quoting *King v. Greiner*, No. 02 Civ. 5810 (DLC), 2009 WL 2001439, at *4

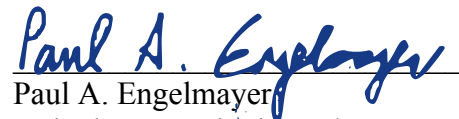
(S.D.N.Y. July 8, 2009)); *see also, e.g., Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

As no party has submitted objections to the Report, review for clear error is appropriate. Careful review of Judge Lehrburger's thorough and well-reasoned Report reveals no facial error in its conclusions; the Report is therefore adopted in its entirety. Because the Report explicitly states that "the parties shall have fourteen (14) days to file written objections to this Report and Recommendation" and that "failure to file timely objections will preclude appellate review," Report at 29–30, the parties' failure to object operates as a waiver of appellate review. *See Caidor v. Onondaga Cty.*, 517 F.3d 601, 604 (2d Cir. 2008) (citing *Small v. Sec'y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (per curiam)).

CONCLUSION

For the foregoing reasons, the Court grants defendant's motion to dismiss in its entirety. The Clerk of Court is respectfully directed to terminate the motion pending at docket 15 and close this case. Chambers will mail a copy of this decision to plaintiff.

SO ORDERED.


Paul A. Engelmayer
United States District Judge

Dated: May 19, 2020
New York, New York